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C O N F I D E N T I A L SECTION 01 OF 03 KIRKUK 000146

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SUBJECT: (C) KRG CONSTITUTION COMMITTEE CHAIR DISCUSSES KURDISH  
REDLINES, FEDERALISM

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CLASSIFIED BY: Jim Bigus, PRT Leader, POL, Department of State.  
REASON: 1.4 (b), (d)

¶1. (C) INTRODUCTION AND SUMMARY: Chair of the Constitution Committee for the Kurdistan Regional Government (KRG), Farset Ahmad Abdallah, said on August 10 that resource control, Article 140, and regional defense were the key redlines defining federalism for the Kurdistan region. He said that a major problem in amending the KRG constitution would be Article 115, which the Kurds had conceded to the Shia during negotiations on regional versus provincial authority. The role of Islam was the main obstacle for ratification of the KRG constitution. New articles would protect religious and human rights. The rights of women also would be protected, although ethno-religious minorities like the Shabak and Yezidis would not receive special attention, since they were Kurds. END INTRODUCTION AND SUMMARY.

(C) KEY REDLINES DEFINE KRG, FEDERAL CONSTITUTIONS  
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¶2. (C) Chair of the Constitution Committee for the Kurdistan Regional Government (KRG), Farset Ahmad Abdallah, told IPAO on August 10 that resource control, Article 140, and regional defense were the key redlines that would likely define the relations between the regional and federal constitutions. He said the KRG should have "influence and control" over oil, minerals and other resources, and would not accept any reduction of regional authority on this matter. The issue was primarily over the reach of central authority, he said, and the position that Baghdad could not enter the Kurdish region to remove existing resource infrastructures, such as water pumps on the Tigris River, without first receiving KRG approval. He also said Article 140 must be implemented without delay because the Kurds had past experiences with the central government manipulating dates and Kurdish leaders understood that to advocate a delay would mean losing the peoples' trust. Abdullah said the only possibility for an amendment to delay the referendum would be if the Kurdish people perceived the federal government was taking steps to correct and normalize Kirkuk. However, he said, the deteriorating security situation in the south was raising Kurdish distrust with other communities' reasons for insisting on certain things, including changing dates. The Kurds believed they could not rely on the federal constitution or central government for protection, he claimed, which was the primary reason a local regional law was needed to maintain the Peshmerga as a defense force. The constitution under Saddam "had many laws providing for the sharing of resources and protection of human rights" he said, and claimed the KRG constitution was designed to protect the Kurds from

future abuses.

(C) OTHER PROBLEMS DOWN THE ROAD

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13. (C) Abdullah claimed several issues would likely be raised during the amendment process. The KRG believed Baghdad would try to centralize authority by inserting a clause in the federal constitution that required the regional constitutions to match "Iraqi laws." Abdullah said the KRG had a clause that specified its constitution only needed to match the laws contained in the federal constitution, not Iraqi laws themselves. Abdullah claimed that KRG's budget currently must be approved by the Ministry of Finance in Baghdad and that this would also become an issue. He said the Kurds already had the three provinces necessary to reject an amendment with which they did not agree and were ready to exercise this option. Abdullah said Article 115 of the federal constitution would also become problematic, since it recognized provinces and regions as having the same authority, a concession given to Shia during the constitutional drafting process because the Shia feared the central and southern regions would not be created.

(C) ROLE OF ISLAM MAIN DELAY IN KRG CONSTITUTION

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14. (C) Abdullah said the role of Islam was the greatest obstacle delaying the drafting process, with the two members representing the Kurdistan Islamic Union and the Kurdistan Islamic Gathering insisting that Islam be mentioned as the official religion of the Kurdistan region in the constitution. The other sixteen constitution members opposed this position, he claimed, because they held the federal constitution had already said enough about this issue and wanted to leave Islam out of the KRG constitution entirely. Abdullah claimed the committee agreed to not have an official KRG religion, but that the even larger obstacle was the Islamic parties' insistence that sharia be the main source of legislation. Here again the KRG and

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federal constitutions differ, Abdullah claimed, with Islam being "a main source" of legislation in the federal article; the KRG language stated Islam was "one of the main sources" of legislation, to make it clear there are other sources and, he claimed, to send the signal that the KRG did not oppose religious efforts because the Islamists tried to spread a rumor the KRG constitution committee was against Islam. Abdullah claimed the delay over this issue had been good, however, since it led to the article that prohibits religious laws from being imposed on other religions.

(C) OTHER FACTORS CONTRIBUTING TO DELAY

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15. (C) Abdullah said several members of the constitution committee were not familiar with the resources issue prior to the drafting process and had to consult with a team of legal advisors and political party representatives, further delaying ratification. He said the committee members also watched and anticipated changes in the federal constitution to match it and adjust the regional draft accordingly. Technical and logistical factors, Abdullah said, contributed to slowing the process, such as translating the foreign constitutions, the fact that no one on the constitution committee was a full time member, and that all the members were spread out geographically with some being out-of-country refugees. Abdullah claimed the United States, South Africa, India, Germany, Bosnia and a group of Arab countries provided models for the KRG constitution. He said as the KNA Secretary, he was unable to attend the constitution committee while the KNA was in session. He added the delay had led to new ideas, which then needed to be incorporated, leading to further delays. On the timeline for the KRG constitution referendum, Abdullah said some would like it soon, while others wanted to wait until the referendum on Kirkuk and other areas.

(C) NEW ARTICLES - RELIGIOUS FREEDOM, HUMAN RIGHTS

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¶6. (C) Abdullah said one major difference between the federal and KRG constitutions was the language devoted to freedom of religion. The federal constitution limited its language, he claimed, to the freedom of belief but had no mention of religion itself, while the KRG constitution included both. He claimed the KRG constitution contained very clear language protecting freedom of religion and respect for human rights and obliged the regional government to respond to individual grievances within 15 days. Still under discussion, he said, was a personal religious law that included language that would prohibit any one religion from imposing its beliefs on other religions. He claimed this was very new to their culture, since Islamic legal systems had dominated regional jurisprudence until recently. This new law was to stipulate that no party or organization was allowed to adopt for its own benefit Quranic articles to use against another people which was, he claimed, a response to Saddam's past abuses of the Quran. An "ombudsman" system adopted from Scandinavian models was to be in place for the protection of human rights. He added that the new constitution established an independent judiciary, included its budget.

(C) STATUS OF WOMEN, MINORITIES

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¶7. (C) Abdullah claimed the KRG constitution declared that 25 percent of the Kurdistan National Assembly (KNA) must be women, as well as 25 percent of the provincial and city councils; this contrasted with the federal constitution, which only covered the Council of Representatives on this issue. He said the KRG constitution also protected women who fled their families for personal reasons, and said that Saddam's constitution had language on the equal status of women and that the KRG constitution committee had tried to better protect these rights. He said that sometimes the nature of the job or position did not permit for the application of these rights, such as in the military, but the KRG constitution prohibited any law that would forbid women from these posts. He claimed the KNA recently had passed a law granting women full salary during maternity leave where formerly they received only half salary. The KNA also passed a law that beating a woman would now be prosecuted under criminal law; before it was not considered a criminal case, he said. On the status of certain minority groups, Abdullah said there was no mention of the Shabak, because they considered themselves Arabs even though they were really Muslim Kurds. He said the Yezidis were mentioned, but only in the articles protecting religious freedom, not in the list of ethnicities because the Yezidis were Kurds. (Note: The Yezidi and Shabak groups have insisted on being mentioned in both the federal and the KRG constitution as an ethnic entity with legally protected status. End note.)

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(C) BIOGRAPHIC NOTES

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¶8. (C) Farset Ahmad Abdullah: Current Chair, KRG Constitution Drafting Committee; from Dahuk; was an Internally Displaced Person (IDP) in Basrah after the 1974 Kurdish revolution; Abdullah said during the interview that as an IDP, the Bathist regime put him on land formerly owned by Jews who had emigrated in 1948 to insult him; member of the High Committee for the Kurdistan National Assembly, a presidential body; member of Masud Barzani's delegation to Baghdad to amend the federal constitution prior to the October, 2005, referendum; played a key role in drafting the Iraqi Transitional Government law; member of the KNA since 1992.

(U) COMMENT

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¶9. (C) Despite periodic announcements from the KRG, the most recent being just days after this meeting, that the new constitution would be ratified shortly, when post requested the

most current draft Abdullah claimed he could not provide one because "it was still in pieces," a probable indication of where things stand. Post anticipates the KRG constitutional ratification process likely will coincide with any negotiations on amendments to the federal constitution, with the "final" KRG version presented to the Kurdish public in a referendum, pending the status of key redline issues in the federal constitution amendment process.

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